

**HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW)**

Neutral Citation No. - 2024:AHC-LKO:18882-DB

Court No. - 10

Case :- GOVERNMENT APPEAL No. - 71 of 2023

Appellant :- State Of U.P. Thru. Prin. Secy. Home,
Lko.

Respondent :- Lovlesh Verma And Another

Counsel for Appellant :- G.A.

Counsel for Respondent :- Priyam Kumar Singh

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Ajai Kumar Srivastava-I,J.

(ORAL)

1. Heard Sri Pawan Kumar Mishra, learned A.G.A. for the appellant/ State, Sri Priyam Kumar Singh, learned counsel for the accused/ respondent No.1 and perused the record of learned trial court, which we have summoned vide order dated 14.09.2023.

2. Vide order of this Court dated 19.10.2023, notice was directed to be issued to respondent No.2/ victim/ informant, which has been served upon him as per report dated 09.01.2024 furnished by the learned Chief Judicial Magistrate, Sitapur. However, no one has

put in appearance on behalf of respondent No.2/ victim/ informant.

3. Under challenge in this government appeal is the impugned judgment and order dated 24.05.2023 passed by the learned Special Judge (S.C./ S.T. Act), Sitapur in Special Sessions Trial No.289 of 2022 titled as State vs. Lovlesh Verma arising out of Case Crime No.430 of 2022, under Sections 323, 504, 326 of the Indian Penal Code¹ and Sections 3(1)Dha and 3(2)V Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989², Police Station Hargaon, District Sitapur whereby the accused/ respondent No.1 was acquitted of the charges under Sections 323, 504, 326 I.P.C. and Sections 3(1)Dha and 3(2)V S.C./ S.T. Act.

4. The case of the prosecution, in short conspectus, is that a written report, Ex. Ka-1 was submitted by the first informant, P.W.-1 at Police Station Hargaon, District Sitapur stating therein that on 31.07.2022 at 08:30 PM, the victim/ first informant/ respondent No.2 was assaulted by the accused/ respondent No.1. It is alleged that casteist slurs were used against the first informant. In this incident, the first informant is said to have sustained grievous injuries. Details of which are contained in injury reports, Ex. Ka-2 and Ex. Ka-3, which have been proved by P.W.-5, Dr. Surendra Singh Negi and P.W.-6, Dr. Shivam Gupta, respectively.

¹ hereinafter referred to as "I.P.C."

² hereinafter referred to as "S.C./ S.T. Act"

5. On the basis of aforesaid written report, Ex. Ka-1 submitted by the first informant, P.W.-1, the first information report, Ex. Ka-4 came to be lodged against the accused/ respondent No.1 on 02.08.2022 at 13:40 Hrs. for the offence under Sections 323, 504, 324 I.P.C. and Sections 3(1)(Da), 3(1)(Dha) and 3(2)(va) S.C./ S.T. Act at Police Station Hargaon, District Sitapur.

6. The Investigating Officer recorded the statements of the witnesses under Section 161 Cr.P.C. He visited the place of occurrence and prepared a site plan Ex. Ka-6 thereof.

7. Upon conclusion of investigation, the Investigating Officer submitted a charge sheet, Ex. Ka-7 against the accused/ respondent No.1 for the offence under Sections 323, 504, 326 I.P.C. and Sections 3(1)Dha and 3(2)V S.C./ S.T. Act.

8. Charges for the offences under Sections 323, 504, 326 I.P.C. and Sections 3(1)Dha and 3(2)V S.C./ S.T. Act were framed against the accused/ respondent No.1, who denied the charges and claimed to be tried.

9. In order to bring home guilt of the accused/ respondent No.1, the prosecution has examined P.W.-1, who is the first informant/ victim/ respondent No.2, P.W.-2, Sandeep Kumar, P.W.-3, Shivbhagwan, P.W.-4, Kamalkishore, P.W.-5, Dr. Surendra Singh Negi and P.W.-6, Dr. Shivam Gupta.

10. The accused/ respondent No.1, in his statement recorded under Section 313 Cr.P.C., has stated the prosecution story to be false. He has also stated to have been falsely implicated in this case and he claimed to be innocent.

11. No evidence in defence was adduced by the accused/ respondent before the learned trial court.

12. The learned trial court vide impugned judgment and order dated 24.05.2023 acquitted the accused/ respondent No.1 for the commission of crime, for which, the charges were framed against him.

13. In such circumstances referred to above, the appellant/ State is before this Court with the present government appeal.

14. Sri Pawan Kumar Mishra, learned A.G.A. for the appellant/ State has submitted that the prosecution had proved its case on the basis of reliable testimonies of prosecution witnesses.

15. His further submission is that the prosecution witnesses of fact, namely, P.W.-1, who is the first informant, P.W.-2, Sandeep Kumar, P.W.-3, Shivbhagwan and P.W.-4, Kamalkishore have deposed against the accused/ respondent No.1 in a consistent manner, therefore, learned trial court erred in disbelieving reliable testimony of prosecution witnesses, which

renders the impugned judgment and order dated 24.05.2023 perverse.

16. His next submission is that even injury reports, Ex. Ka-2 and Ex. Ka-3 of the injured/ first informant/ respondent No.2 corroborates the prosecution story. The injured/ first informant had sustained injuries. Therefore also the acquittal of the accused/ respondent No.1 was not justified.

17. Learned A.G.A. for the State/ appellant has, thus, submitted that the impugned judgment and order dated 24.05.2023 being perverse deserves to be set aside and the accused/ respondent No.1 deserves to be convicted.

18. Opposing the aforesaid contentions of learned A.G.A. for the State/ appellant, Sri Priyam Kumar Singh, learned counsel appearing for the accused/ respondent No.1 has vehemently submitted that the presumption of innocence of accused/ respondent No.1 has been fortified by a reasoned and well discussed judgment of acquittal of the learned trial court. Therefore, interference by this court is not warranted.

19. We have heard the learned A.G.A. for the State/ appellant, learned counsel appearing for the accused/ respondent No.1 and we have perused the trial court record and also the paper book, which contains the examination-in-chief and also the cross-examination of the first informant/ victim, P.W.-1, who had stated

during his cross-examination that he had very good relation with the accused/ respondent No.1, Lovlesh Verma since a long time and that the said good relation is maintained till date. Their families are also friendly with each other and there was no altercation with lovlesh Verma at any point of time, which resulted in Lovlesh Verma using castiest abuses against the respondent No.2/ first informant/ P.W.-1. He has stated in his cross-examination that because of the instigation of certain other persons, he had lodged the impugned F.I.R. The other witnesses of fact, P.W.-2, Sandeep Kumar, P.W.-3, Shivbhagwan and P.W.-4, Kamalkishore have also not supported the prosecution story.

20. Accordingly, this Court finds no legal or factual infirmity in the impugned judgment and order 24.05.2023 whereby the respondent No.1 was acquitted of all charges.

21. In the light of what has been discussed above, we are of the considered view that the appeal lacks merit, which deserves to be dismissed at the stage of admission, and is, accordingly, **dismissed**.

22. The accused/ respondent No.1, Lovlesh Verma is on bail. His bail bonds are cancelled. Sureties are discharged. He need not surrender, in case, he is not wanted in any other case.

23. In compliance with the provision contained in Section 437-A Cr.P.C. the accused/ respondent No.1 is

directed to furnish a personal bond and two sureties to the satisfaction of the court concerned within a period of six weeks from today.

24. Let the trial court record along with a copy of this judgment be transmitted forthwith to the learned trial Court for information and necessary compliance.

(Ajai Kumar Srivastava-I, J.) (Sangeeta Chandra, J.)

Order Date :- 01.03.2024
cks/-